

Law Offices of
MATHENY SEARS LINKERT & JAIME LLP
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Attorneys for Defendant, COSTCO WHOLESALE
CORPORATION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GUADALUPE PAYAN DE SOLIZ, an
individual,

Plaintiff,

v.

COSTCO WHOLESALE
CORPORATION, a corporation and DOES
1 to 50, inclusive,

Defendants.

Federal Case No. 24-21

**DEFENDANT COSTCO WHOLESALE
CORPORATION'S NOTICE OF
REMOVAL**

Fresno County Case No. 23CECG03696

[DIVERSITY JURISDICTION]

Complaint filed: September 8, 2023

Trial date: TBD

TO THE CLERK OF THE ABOVE-ENTITLED COURT, AND TO PLAINTIFF AND
HER ATTORNEY(S) OF RECORD:

PLEASE TAKE NOTICE that Defendant COSTCO WHOLESALE CORPORATION
hereby removes the matter Guadalupe Payan De Soliz v. Costco Wholesale Corporation, and DOES
1 to 50 inclusive, from the Superior Court of California, County of Fresno, Case No.
23CECG03696 to the United States District Court for the Eastern District of California, under
U.S.C. §§ 1441(b) and 1446(b)(3). Copies of the pleadings and other papers served on the removing
defendants in the above-described action are attached to this Notice of Removal as required by
U.S.C. § 1446. (See Exhibits **A, B, C, and D.**)

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I. STATEMENT OF JURISDICTION

1. As the appended record demonstrates, the action pending in the state court is a civil matter with the original diversity jurisdiction of the federal district courts under 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between the litigants, and the amount in controversy exceeds \$75,000.00.

2. Based upon information and belief, Plaintiff was a California citizen and resident of the County of Fresno, California on September 12, 2021, the date of the alleged incident; based on information and belief, Plaintiff was a citizen of California and resident of the County of Fresno, California when she filed the Complaint on September 8, 2023; and based upon information and belief, Plaintiff was a citizen of California and resident of the County of Fresno, California at the time of filing of this Notice of Removal. (*See* Plaintiff's Complaint, ¶ 2 attached herewith as **Exhibit A.**)

3. Defendant COSTCO WHOLESALE CORPORATION was on September 12, 2021, the date of the subject incident alleged by Plaintiff, and on September 8, 2023, the filing date of Plaintiff's Complaint, a Washington Corporation with its principal place of business in Issaquah, Washington. At the time of filing this Notice of Removal, Defendant is a Washington Corporation with its principal place of business in Issaquah, Washington. (*See* Declaration of Matthew C. Jaime, attached as **Exhibit B.**)

4. Plaintiff Guadalupe Payan De Soliz claims to have suffered general damages and special damages. (*See* Statement of Damages, attached as **Exhibit C.**)

5. On December 12, 2023, Plaintiff Guadalupe Payan De Soliz asserted in her Statement of Damages, prepared by her counsel, that she has incurred some \$3,750,000.00 in total damages due to the alleged incident at Costco on September 12, 2021. (*See* Statement of Damages, attached as **Exhibit C.**)

6. Thus, because this action involves citizens of different states and the amount in controversy exceeds \$75,000, diversity jurisdiction exists.

II. VENUE

7. This action was filed in the Superior Court of California for the County of Fresno.

Venue properly lies with the United States District Court for the Eastern District of California as the district and division embracing the geographic locations where the action is pending. (*See* 28 U.S.C. §§ 84(b) 1441(a).) The alleged acts and events Plaintiffs complain of occurred in this judicial district. (28 U.S.C. § 1391(a); *See* Plaintiff’s Complaint, attached hereto as **Exhibit A**.)

III. INTRADISTRICT ASSIGNMENT

8. Assignment to the United States District Court for the Eastern District in California sitting in Fresno is proper under 28 U.S.C. §§ 1331 and 1441(a) and Eastern District of California Rule 120(d) because the state court action was filed and is pending in the County of Fresno and Plaintiff is a citizen of California and the alleged acts and events Plaintiffs complain of occurred in Fresno County.

IV. PLEADINGS, PROCESS, AND ORDERS

9. On September 8, 2023, Plaintiff filed a Complaint in Fresno County Superior Court alleging negligence against Defendant COSTCO WHOLESALE CORPORATION. A copy of the Complaint is attached as **Exhibit A**.

10. On October 5, 2023, COSTCO WHOLESALE CORPORATION filed an answer to the Complaint. (*See* Defendant COSTCO WHOLESALE CORPORATION’S Answer to Complaint attached as **Exhibit D**.)

11. Plaintiff Guadalupe Payan De Soliz, in her Statement of Damages, based on information and belief, prepared by her counsel, asserted that she has incurred some \$3,750,000.00 in total damages due to the aforementioned incident at Costco on September 12, 2021. Plaintiff’s Statement of Damages was served on December 12, 2023. A copy of Plaintiff Guadalupe Payan De Soliz’s Statement of Damages was previously attached as **Exhibit C**.

V. DIVERSITY OF CITIZENSHIP

12. A corporation is a citizen of its state of incorporation and the state in which its principal place of business is located. (28 U.S.C. § 1332(c)(1); *Hertz v. Friend*, U.S. 77, 80 (2010).) A corporation’s principal place of business is “. . . the place where a corporation’s officers direct, control, and coordinate the corporation’s activities. It is the place that Courts of Appeal have called the corporation’s ‘nerve center.’” (*Id.* at pp. 92-93.) A corporation’s “nerve center” is usually its

headquarters. (*Ibid.*)

15. Defendant COSTCO WHOLESALE CORPORATION could ascertain from Plaintiff's Complaint that Plaintiff is a California citizen. (**Exhibit A**, ¶ 2.) From Plaintiff's Complaint Defendant could likewise ascertain that Plaintiff is a citizen of the County of Fresno. (**Exhibit A**, ¶ 2.) The Complaint was served on September 15, 2023.

11. On December 12, 2023, Defendant COSTCO WHOLESALE CORPORATION received Plaintiff's Statements of Damages for \$3,750,000.00 which exceeds \$75,000.00. (Attached hereto as **Exhibit C**.)

12. Defendant COSTCO WHOLESALE CORPORATION was on September 12, 2021, the date of the subject incident alleged in Plaintiff's Complaint, and on September 8, 2023, the filing date of Plaintiffs' Complaint, a Washington Corporation with its principal place of business in Issaquah, Washington.

13. Pursuant to 28 U.S.C. 28 § 1446(b)(3), Costco has 30 days from December 12, 2023, to remove the Action to Federal Court.

14. Thus, complete diversity of citizenship exists between the parties as required under 28 U.S.C. § 1332(a)(1) because Plaintiff is a California citizen and Defendant COSTCO WHOLESALE CORPORATION is a citizen of Washington.

15. Further, the amount in controversy requirement is satisfied whereas the Statements of Damages total \$3,750,000.00, which exceeds \$75,000.00.

16. Therefore, with complete diversity of citizenship between opposing parties, and the required amount in controversy exceeded, this matter is removable.

VI. TIMELINESS OF REMOVAL

17. A case is removable on diversity grounds if the case stated by the initial pleading is not removable, but through service of other papers it is first ascertained that the case is one which is or has become removable. (28 U.S.C. §§ 1332(a), 1446(b)(1).)

18. Plaintiff's Complaint was served on Defendant COSTCO WHOLESALE CORPORATION on September 15, 2023. (*See Exhibit A*.) Plaintiff's Complaint disclosed Plaintiff's California citizenship, enabling Defendant to ascertain diversity existed.

18. On December 12, 2023, Defendant COSTCO WHOLESALE CORPORATION received Plaintiffs' Statements of Damages that confirmed Plaintiff alleges an amount in controversy in excess of \$75,000.00. (*See* Statement of Damages, attached as **Exhibit C.**) The Statements of Damages constitute "other paper" as that term is used 28 U.S.C. 1446 (b)(3).

19. Defendant thus has until January 10, 2023, to remove the state court matter to federal court.

20. Defendant COSTCO WHOLESALE CORPORATION removed the matter from state to federal court on January 8, 2024.

21. Therefore, Defendant COSTCO WHOLESALE CORPORATION has timely removed this action to the United States District Court for the Eastern District of California.

VII. NOTICE TO PLAINTIFF AND TO STATE COURT

22. Witten notice of this filing will be provided to Plaintiff's Counsel of Record and a copy of the Notice of Removal will be filed with the Clerk of the Fresno County Superior Court.

VIII. CONCLUSION

23. For the foregoing reasons, Defendant COSTCO WHOLESALE CORPORATION removes this action to the United States District Court for the Eastern District of California.

Dated: January 8, 2024

MATHENY SEARS LINKERT & JAIME LLP

By: /s/ Matthew C. Jaime

MATTHEW C. JAIME,
Attorneys for Defendant COSTCO
WHOLESALE CORPORATION

EXHIBIT A

THE CAPITAL LAW FIRM
Joshua J. Zokaem, Esq. (State Bar No. 299388)
11111 Santa Monica Boulevard, Suite 100
Los Angeles, California 90025
Phone: (310) 363-0403 | Fax: (310) 744-0110
email: josh@capfirm.com
litigation@capfirm.com

E-FILED
9/8/2023 3:38 PM
Superior Court of California
County of Fresno
By: Taharea Navarro, Deputy

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO**

GUADALUPE PAYAN DE SOLIZ, an
individual,

Plaintiff,

v.

COSTCO WHOLESALE CORPORATION, a
corporation and DOES 1 through 50, inclusive,

Defendants.

Case No. **23CECG03696**

COMPLAINT FOR DAMAGES

- 1. NEGLIGENCE**
- 2. PREMISES LIABILITY**

DEMAND FOR JURY TRIAL

COMES NOW, GUADALUPE PAYAN DE SOLIZ, an individual, ("Plaintiff") for causes of action against COSTCO WHOLESALE CORPORATION, a corporation; and DOES 1 through 50, Inclusive, and each of them, (collectively "Defendants") complain and allege as follows:

GENERAL ALLEGATIONS

1. The claims set forth herein arise from Plaintiff GUADALUPE PAYAN DE SOLIZ'S severe and debilitating injuries that she sustained as a result of Defendants' negligently maintained premises located at 4500 W. Shaw Avenue, Fresno, CA 93722, (hereinafter "SUBJECT PREMISE")

2. Plaintiff GUADALUPE PAYAN DE SOLIZ'S is, and at all times relevant herein was, a resident of the County of Fresno, in the State of California.

3. Plaintiff is informed, believes, and thereon alleges that, at all times relevant and mentioned herein, Defendant COSTCO WHOLESALE CORPORATION, (hereinafter "COSTCO") was a corporation organized and existing under and by virtue of the laws of the State of Washington and authorized to do, and is doing, business in the State of California, County of Fresno.

4. The true names and capacities, whether individual, plural, corporate, partnership, associate, or otherwise, of DOES 1 through 50, inclusive, are unknown to Plaintiff who therefore sues said Defendants by such fictitious names. The full extent of the facts linking such fictitiously sued Defendants is unknown to Plaintiff. Plaintiff is informed and believes, and thereupon alleges, that each of the Defendants designated herein as a DOE was, and is, negligent, or in some other actionable manner, responsible for the events and happenings hereinafter referred to, and thereby negligently, or in some other actionable manner, legally and proximately caused the hereinafter described injuries and damages to Plaintiff. Plaintiff will hereafter seek leave of the Court to amend this Complaint to show the Defendants' true names and capacities after the same have been ascertained.

5. Plaintiff is informed, believes and thereon alleges that, at all times relevant and mentioned herein, Defendants COSTCO and DOES 1 through 50, inclusive, and each of them, were the agents, servants, employees and/or joint venturers of their co-defendants, and each of them, was acting within the course, scope and authority of said agency, employment and/or venture. It is alleged that such agents, servants, employees, alter egos, concerted actors, and/or joint venturers acted in concert and gave substantial assistance and encouragement to the acts and omission of each other.

6. On September 12, 2021 at approximately 5:30 p.m. through 6:00 p.m., Plaintiff GUADALUPE PAYAN DE SOLIZ was on Defendants SUBJECT PREMISE, when she slipped and fell over a soapy substance that remained unattended on the floor on Defendant's property (hereinafter "SUBJECT INCIDENT").

FIRST CAUSE OF ACTION

NEGLIGENCE

(By Plaintiff As Against Defendant COSTCO; and DOES 1 through 50, Inclusive)

7. Plaintiff is informed, believes and thereon alleges that, at all times mentioned herein, Defendants COSTCO, and DOES 1 through 50, inclusive, owed a duty of care to all reasonably foreseeable people; including Plaintiff GUADALUPE PAYAN DE SOLIZ to own, lease, manage, maintain, control, entrust, service, construct, and operate Defendants' premises, including but not limited to the SUBJECT PREMISE, in a reasonable manner.

8. Plaintiff is informed, believes and thereon alleges that, at all times mentioned herein, Defendants COSTCO, and DOES 1 through 50, inclusive, carelessly, negligently, and recklessly owned, leased, managed, maintained, controlled, entrusted, serviced, constructed and operated Defendants' premises, including but not limited to the SUBJECT PREMISE, specifically by failing to warn of, repair, or remedy the improperly maintained SUBJECT PREMISE within Defendants' premises towards Defendants' patrons and employees when using items in their control and therefore causing Plaintiff to sustain severe and permanent injuries.

9. Plaintiff is informed, believes and thereon alleges that, the negligent reckless, and unlawful conduct of Defendants COSTCO, and DOES 1 through 50, inclusive, in regards to the ownership, lease, management, maintenance, control, entrustment, service, construction, and operation of Defendants' premises, including but not limited to Defendants negligence, was the direct, legal, and proximate cause of the injuries and damages to Plaintiff as herein alleged.

10. As a legal, direct and proximate result of the aforementioned conduct of Defendants COSTCO, and DOES 1 through 50, inclusive, and each of them, Plaintiff GUADALUPE PAYAN DE SOLIZ was injured and hurt in her health, strength and activity, sustaining serious injuries to her body, and shock and injury to her nervous system and person, all of which said injuries have caused and continue to cause Plaintiff great physical and mental pain and suffering. Plaintiff is further informed and believes, and thereon alleges that, said injuries will result in some or all permanent disability to her, all to her general damages in an amount which will be states according proof pursuant to California *Code of Civil Procedure*

1 Section 425.10.

2 11. As a legal, direct and proximate result of the aforementioned conduct of
3 Defendants COSTCO, and DOES 1 through 50, inclusive, and each of them, Plaintiff
4 GUADALUPE PAYAN DE SOLIZ was prevented from attending her usual or potential
5 occupation and/or Plaintiff is informed and believes, and thereon alleges, that she may be
6 prevented from attending her occupation in the future, and thereby will also sustain a loss of
7 earning capacity and loss of opportunity, in addition to lost earnings, past, present and future
8 according to proof, pursuant to California *Code of Civil Procedure* Section 425.10.

9 12. As a legal, direct and proximate result of the aforementioned conduct of
10 Defendants COSTCO, and DOES 1 through 50, inclusive, and each of them, Plaintiff
11 GUADALUPE PAYAN DE SOLIZ was compelled to and did employ the services of hospitals,
12 physicians, surgeons, nurses and the like, to care for and treat her, and did incur hospital,
13 medical, professional and incidental expenses, and Plaintiff is informed and believes, and
14 thereon alleges, that by reason of her injuries, will necessarily incur additional like expenses for
15 an indefinite period of time in the future, the exact amount of which expenses will be stated
16 according to proof, pursuant to California *of Civil Procedure* Section 425.10.

17
18 **SECOND CAUSE OF ACTION**

19 **PREMISES LIABILITY**

20 **(By Plaintiff As Against Defendant COSTCO; and DOES 1 through 50, Inclusive)**

21 13. Plaintiff re-alleges and incorporates herein by reference each and every
22 allegation and statement contained in the prior paragraphs.

23 14. Plaintiff is informed, believes and thereon alleges that, Defendants COSTCO,
24 and DOES 1 through 50, inclusive, owed a duty of care to all reasonably foreseeable people,
25 including the Plaintiff, to own, lease, license, maintain, manage, plan, design, control, operate,
26 install, staff, build, supervise, and service the property it owned, constructed, manufactured,
27 installed, leased, maintained, managed, serviced, benefited from, or otherwise controlled and to
28 discover, identify, warn, remedy, repair, replace, and protect against any unsafe condition or

1 anything that could be reasonably expected to harm others.

2 15. This duty of care included keeping Plaintiff free of harm, particularly with
3 property that is owned, constructed, manufactured, installed, leased, maintained, managed,
4 serviced, benefited from, or otherwise controlled by any Defendants.

5 16. Plaintiff is informed, believes and thereon alleges that, Defendants COSTCO,
6 and DOES 1 through 50, inclusive, breached their duty of care and negligently owned,
7 constructed, manufactured, installed, leased, maintained, managed, serviced, benefited from, or
8 otherwise controlled the SUBJECT PREMISES, including the improperly maintained their
9 PREMISE and surrounding areas, and their constituent parts, and/or the property located on,
10 abutting, or adjacent to property owned, constructed, manufactured, installed, leased,
11 maintained, managed, serviced, benefited from, or otherwise controlled by any Defendants. This
12 breach includes, but is not limited to, failing to keep Plaintiff free of harm and therefore causing
13 the SUBJECT INCIDENT.

14 17. As a direct result of this negligent conduct, the Plaintiff suffered injury and
15 damages as alleged herein. Plaintiff has incurred damages, past and future, economic and
16 noneconomic.

17 18. The wrongful conduct of each of Defendants was a substantial factor in causing
18 harm and damage to the Plaintiff, in an amount to be determined at trial pursuant to California
19 *Code of Civil Procedure* Section 425.10.

20
21 **PRAYER FOR DAMAGES**

22 WHEREFORE, Plaintiff GUADALUPE PAYAN DE SOLIZ, prays for judgment
23 against all Defendants as follows:

24 1. For general damages (also known as non-economic damages), including but not
25 limited to, past and future physical, mental and emotional pain and suffering and disfigurement,
26 in an amount in excess of the jurisdictional minimum, according to proof;

27 2. For special damages (also known as economic damages), including but not
28 limited to, past and future medical expenses, past and future professional expenses, past and

future loss of wages and wage earning capacity, past and future medical and rehabilitative expenses, and incidental expenses, in excess of the jurisdictional minimum, according to proof;

3. For prejudgment interest and pre-trial interest, according to proof;

4. For cost of suit incurred herein according to proof;

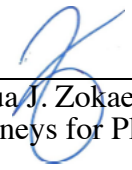
5. For damages for Plaintiff's other losses, according to proof;

6. For all statutorily allowed damages; and

For such other and further relief as the Court may deem just and proper.

DATED: September 8, 2023

THE CAPITAL LAW FIRM

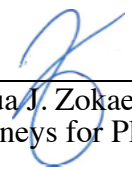
By: 
Joshua J. Zokaeem, Esq.
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff request a jury trial on all causes of action as to all Defendants.

DATED: September 8, 2023

THE CAPITAL LAW FIRM

By: 
Joshua J. Zokaeem, Esq.
Attorneys for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) JOSHUA J. ZOKAEEM SBN: 299388 THE CAPITAL LAW FIRM 11111 SANTA MONICA BLVD. SUITE 100 LOS ANGELES, CA 90025 TELEPHONE NO.: (310) 363-0403 FAX NO. (310) 744-0111 E-MAIL ADDRESS (Optional): Josh@capfirm.com ATTORNEY FOR (Name): Plaintiff: GUADALUPE PAYAN DE SOLIZ	FOR COURT USE ONLY E-FILED 9/15/2023 2:24 PM Superior Court of California County of Fresno By: A. Hoffman, Deputy
FRESNO COUNTY SUPERIOR COURT STREET ADDRESS: 1130 O Street, Second Floor MAILING ADDRESS: CITY AND ZIP CODE: Fresno, CA 93271 BRANCH NAME: FRESNO COUNTY	
PLAINTIFF: GUADALUPE PAYAN DE SOLIZ DEFENDANT: COSTCO WHOLESALE corporation, a corporation	CASE NUMBER: 23CECG03696
PROOF OF SERVICE OF SUMMONS	Ref. No. or File No.: DE SOLIZ

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ Summons
 - b. ☒ Complaint
 - c. ☐ Alternative Dispute Resolution (ADR) package
 - d. ☒ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ Cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
COSTCO WHOLESALE corporation, a corporation
- b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
CT Corporation System - John Montijo - Agent for service of process
4. Address where the party was served: **CT Corporation System**
330 N Brand Blvd Ste 700
Glendale, CA 91203-2336
5. I served the party (check proper box)
 - a. ☒ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **9/15/2023** (2) at (time): **7:36 AM**
 - b. ☐ **by substituted service.** On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3b):
 - (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., §415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

- c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (*specify means of service and authorizing code section*):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (*specify*):
- c. ☐ as occupant.
- d. ☒ On behalf of (*specify*): **COSTCO WHOLESALE corporation, a corporation**
under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: **MARK SHURLOCK - PacTrack, Inc.**
- b. Address: **11135 Rush Street South El Monte, CA 91733**
- c. Telephone number: **(213) 201-5856**
- d. **The fee** for service was: **\$ 80.00**
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ registered California process server:
- (i) ☐ owner ☒ employee ☐ independent contractor.
- (ii) Registration No.: **2013190921**
- (iii) County: **LOS ANGELES**

8. ☒ **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ **I am a California sheriff or marshal and** I certify that the foregoing is true and correct.

Date: **9/15/2023**

PacTrack, Inc.
11135 Rush Street
South El Monte, CA 91733
(213) 201-5856
www.pactrack.com

MARK SHURLOCK

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

Mark Shurlock

(SIGNATURE)

EXHIBIT B

Law Offices of
MATHENY SEARS LINKERT & JAIME LLP
MATTHEW C. JAIME (SBN 140340)
3638 American River Drive
Sacramento, California 95864
Telephone: (916) 978-3434
Facsimile: (916) 978-3430
mjaime@mathenysears.com

Attorneys for Defendant, COSTCO WHOLESALE
CORPORATION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GUADALUPE PAYAN DE SOLIZ, an
individual,

Plaintiff,

v.

COSTCO WHOLESALE
CORPORATION, a corporation and DOES
1 to 50, inclusive,

Defendants.

Federal Case No.

**DECLARATION OF MATTHEW C.
JAIME IN SUPPORT OF DEFENDANT
COSTCO WHOLESALE
CORPORATION'S NOTICE OF
REMOVAL**

Fresno County Case No. 23CECG03696

[DIVERSITY JURISDICTION]

Complaint filed: September 8, 2023

Trial date: TBD

I, Matthew C. Jaime, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts of the State of California and am authorized to appear before the United States District Court, Eastern District of California. I am a partner at the law firm of Matheny, Sears, Linkert, & Jaime, LLP, attorneys of record for Defendant Costco Wholesale Corporation. This declaration is based upon my personal knowledge. If called as a witness, I could and would competently testify to the facts stated herein.

2. Attached hereto is true and correct copy of the Statement of Information from the California Secretary of State describing Costco Wholesale Corporation as a Washington corporation with its principal place of business in Issaquah, Washington. (See Exhibit 1.)

1 I declare under penalty of perjury under the laws of the State of California and the laws of
2 the United States of America that the foregoing is true and correct.

3
4 Executed on this 8th day of January, 2024 at Sacramento, California.

5
6 /s/ Matthew C. Jaime
7 MATTHEW C. JAIME
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LAW OFFICES OF
MATHENY SEARS LINKERT & JAIME LLP
3638 AMERICAN RIVER DRIVE
SACRAMENTO, CALIFORNIA 95864

EXHIBIT 1



STATE OF CALIFORNIA
Office of the Secretary of State
STATEMENT OF INFORMATION
CORPORATION

California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 653-3516

For Office Use Only

-FILED-

File No.: BA20230940045

Date Filed: 6/12/2023

Entity Details

Corporation Name COSTCO WHOLESALE CORPORATION
Entity No. 1587907
Formed In WASHINGTON

Street Address of Principal Office of Corporation

Principal Address 999 LAKE DRIVE
ISSAQUAH, WA 98027

Mailing Address of Corporation

Mailing Address P.O. BOX 35005
SEATTLE, WA 98124
Attention LICENSING

Street Address of California Office of Corporation

Street Address of California Office 4649 MORENA BOULEVARD
SAN DIEGO, CA 92117

Officers

Officer Name	Officer Address	Position(s)
WALTER C. JELINEK	999 LAKE DRIVE ISSAQUAH, WA 98027	Chief Executive Officer
JOHN C. SULLIVAN	999 LAKE DRIVE ISSAQUAH, WA 98027	Secretary
RICHARD A. GALANTI	999 LAKE DRIVE ISSAQUAH, WA 98027	Chief Financial Officer

Additional Officers

Officer Name	Officer Address	Position	Stated Position
Roland Vachris	999 LAKE DRIVE ISSAQUAH, WA 98027	Other	President
Patrick Callans	999 LAKE DRIVE ISSAQUAH, WA 98027	Other	EVP/Asst. Secretary
Jeffrey Elliott	999 LAKE DRIVE ISSAQUAH, WA 98027	Treasurer	
Margaret McCulla	999 LAKE DRIVE ISSAQUAH, WA 98027	Other	AVP/Asst. Secretary
Gail E. Tsuboi	999 LAKE DRIVE ISSAQUAH, WA 98027	Other	AVP/Asst. Secretary
Gary Swearingen	999 LAKE DRIVE ISSAQUAH, WA 98027	Other	Asst. Secretary

Agent for Service of Process

California Registered Corporate Agent (1505) C T CORPORATION SYSTEM
Registered Corporate 1505 Agent

Type of Business

Type of Business WHOLESALE/RETAIL MBRSHIP WAREHS

Email Notifications

Opt-in Email Notifications

Yes, I opt-in to receive entity notifications via email.

Labor Judgment

No Officer or Director of this Corporation has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.

Electronic Signature

☒ By signing, I affirm that the information herein is true and correct and that I am authorized by California law to sign.

Gail E. Tsuboi

Signature

06/12/2023

Date

EXHIBIT C

THE CAPITAL LAW FIRM
Joshua J. Zokaem, Esq. (State Bar No. 299388)
6420 Wilshire Blvd. 18th Floor,
Los Angeles, CA 90048
Phone: (310) 363-0403 | Fax: (310) 744-0110
Email: josh@capfirm.com
litigation@capfirm.com

Attorneys for Plaintiff
Guadalupe Payan De Soliz

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO**

GUADALUPE PAYAN DE SOLIZ, an
individual,

Plaintiff,

v.

COSTCO WHOLESALE CORPORATION, a
corporation and DOES 1 to 50, inclusive,

Defendants.

CASE NO.: 23CECG03696

**PLAINTIFF'S STATEMENT OF
DAMAGES**

**TO DEFENDANT COSTCO WHOLESALE CORPORATION, AND TO THEIR
ATTORNEY OF RECORD:**


Pursuant to *Code of Civil Procedure* § 425.11, GUADALUPE PAYAN DE SOLIZ, herby
sets forth his Statement of Damages as follows:

- | | | |
|----|----------------------------|----------------|
| 1. | Future Loss of Earnings: | \$ 250,000.00 |
| 2. | Past Medical: | \$ 500,000.00 |
| 3. | Future Medical: | \$1,000,000.00 |
| 4. | Past pain and suffering: | \$1,000,000.00 |
| 5. | Future pain and suffering: | \$1,000,000.00 |

THE CAPITAL LAW FIRM
6420 Wilshire Blvd. 18th Floor, Los Angeles, CA 90048

DATED: December 11, 2023

THE CAPITAL LAW FIRM

By: 
Joshua J. Zokaem, Esq.
Attorneys for Plaintiff

1 **VERIFICATION**

2 **STATE OF CALIFORNIA, COUNTY OF FRESNO**

3 I have read the foregoing

4 **PLAINTIFF'S STATEMENT OF DAMAGES**

5
6
7 and know its contents.

8 I am a party to this action. The matters stated in the foregoing document are true of my
9 own knowledge except as to those matters which are stated on information and belief, and as to
those matters I believe them to be true.

10 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

11 Executed on 12/11/2023
12 _____, in Fresno, California.

13
14 Guadalupe Payan De Soliz

15 _____
16 Print Name of Signatory

17
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27
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Signature

DocuSigned by:

Guadalupe Payan De Soliz

4AA77D90C38F4C2...

PROOF OF SERVICE

I am over the age of 18 and not a party to the within action. I am employed in the County of Los Angeles, State of California. My business address is 6420 Wilshire Blvd. 18th Floor, Los Angeles, CA 90048.

On December 12, 2023, I served the following document(s) described as **PLAINTIFF'S STATEMENT OF DAMAGES** on the interested parties in said action, by placing the ☐ original to the propounded party ☐ a true copy thereof to all other parties enclosed in sealed envelopes addressed as follows:

Law Offices of
MATHENY SEARS LINKERT & JAIME LLP
MATTHEW C. JAIME
3638 American River Drive
Sacramento, CA 95864
Telephone: (916) 978-3434
Facsimile: (916) 978-3430
Email: rladrido@mathenysears.com
tlininger@mathenysears.com
mjaime@mathenysears.com

Attorney for Defendant

x **BY ELECTRONIC SERVICE (EMAIL):** Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the document to be sent to the persons at the electronic notification addresses.

☐ **STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 12, 2023, at Los Angeles, California.

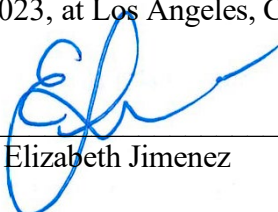

Elizabeth Jimenez

EXHIBIT D

Law Offices of
MATHENY SEARS LINKERT & JAIME LLP
MATTHEW C. JAIME (SBN 140340)
3638 American River Drive
Sacramento, California 95864
Telephone: (916) 978-3434
Facsimile: (916) 978-3430
mjaime@mathenysears.com

Attorneys for Defendant, COSTCO WHOLESALE
CORPORATION

SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

GUADALUPE PAYAN DE SOLIZ, an
individual,

Plaintiff,

v.

COSTCO WHOLESALE
CORPORATION, a corporation and DOES
1 to 50, inclusive,

Defendants.

Case No. 23CECG03696

ANSWER TO COMPLAINT

Complaint filed: September 8, 2023
Trial date: TBD

Defendant COSTCO WHOLESALE CORPORATION [hereinafter "COSTCO"], hereby
sets forth its Answer and Affirmative Defenses to Plaintiff GUADALUPE PAYAN DE SOLIZ'S
Complaint for Damages and demands trial by jury.

I

COSTCO denies each and every, all and singular, generally and specifically, the allegations
in said Complaint, and each and every part thereof; denies that plaintiff has been injured or
damaged in any sum or manner whatsoever as a result of the action or inaction of COSTCO, and
further denies that plaintiff is entitled to any further relief whatsoever from COSTCO.

///

///

II

AS A FURTHER, SEPARATE, AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint on file herein, and to each and every cause of action contained therein, COSTCO is informed and believes and thereon alleges, that at the time and place of the events described in plaintiff's Complaint, plaintiff was herself, careless, negligent or otherwise legally at fault, and that said carelessness, negligence or other legal fault on the part of plaintiff proximately caused or contributed to, in whole or in part, the injuries, losses and damages complained of, if any there are, by reason of these premises, plaintiff's Complaint is barred, or her recovery is reduced in direct proportion to the amount of contributory or other legal fault.

III

AS A FURTHER, SEPARATE, AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint on file herein, and to each and every cause of action contained therein, COSTCO is informed and believes and thereon alleges, that at the time and place of the events described in plaintiff's Complaint, persons and entities as yet unknown to COSTCO were careless, negligent or otherwise legally at fault, and that such conduct proximately caused or contributed to the losses and damages, complained of by plaintiff, if any there are, and that liability should be apportioned among COSTCO and said persons and entities based upon respective percentages of fault.

IV

AS A FURTHER, SEPARATE, AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint on file herein, and to each and every cause of action contained therein, COSTCO alleges that in the event plaintiff recovers judgment against COSTCO, said judgment should be apportioned under equitable principles of comparative fault based upon percentages of liability attributable to each defendant or responsible person or entity.

V

AS A FURTHER, SEPARATE, AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint, COSTCO alleges that plaintiff's Complaint fails to state facts sufficient to state a cause of action against COSTCO.

VI

AS A FURTHER, SEPARATE, AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint, COSTCO alleges that as to each and every cause of action alleged in plaintiff's Complaint, the court lacks personal jurisdiction over COSTCO.

VII

AS A FURTHER, SEPARATE, AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint, COSTCO alleges that as to each and every cause of action alleged in plaintiff's Complaint, the court lacks subject matter jurisdiction over COSTCO.

VIII

AS A FURTHER, SEPARATE, AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint, COSTCO alleges that plaintiff lacks capacity to sue for the claims set forth therein.

IX

AS A FURTHER, SEPARATE, AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint, and to each and every cause of action contained therein, COSTCO alleges that plaintiff, with the exercise of reasonable diligence and effort, would have and could have mitigated the damages alleged in said Complaint, if any there are, and that the resultant damages, if any, complained of in said Complaint were directly and proximately caused by the failure, neglect and refusal of plaintiff to exercise reasonable diligence in an effort to mitigate the damages alleged.

X

AS A FURTHER, SEPARATE, AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint on file herein, and to each and every cause of action contained therein, COSTCO is informed and believes and thereon alleges that the injuries of which plaintiff complains, are the proximate result of the acts, errors or omissions, negligence or other legal fault of parties, codefendants, persons, partnerships, corporations and entities, both named and unnamed. By virtue of the provisions of California Civil Code sections 1431 et seq. (Proposition 51, adopted June 3, 1986), COSTCO respectfully requests that damages, if any, be allocated and

1 apportioned amongst all causative factors and that COSTCO be found legally responsible only for
2 COSTCO's determined share of legal fault.

3 **XI**

4 **AS A FURTHER, SEPARATE AND DISTINCT ANSWER AND DEFENSE** to
5 plaintiff's Complaint on file herein, COSTCO alleges that plaintiff's Complaint is barred by the
6 applicable statute of limitations set forth in the California Code of Civil Procedure.

7 **XII**

8 **AS A FURTHER, SEPARATE AND DISTINCT DEFENSE**, it is hereby alleged that
9 COSTCO did not have either actual or constructive notice, or had inadequate notice, of the alleged
10 dangerous condition described in the Complaint or that said condition had existed for a sufficient
11 time prior to the accident described in the Complaint for measures to have been reasonably taken
12 to protect against, remedy, or warn of the alleged condition.

13 **XIII**

14 **AS A FURTHER, SEPARATE AND DISTINCT DEFENSE**, it is hereby alleged that
15 at the time of the accident described in the Complaint, COSTCO did not have any care, custody,
16 control, or supervision over the area where said accident allegedly occurred.

17 **XIV**

18 **AS A FURTHER, SEPARATE AND DISTINCT DEFENSE**, it is hereby alleged that
19 the dangerous condition or defects allegedly existing on the premises described in the Complaint,
20 if said condition or defects existed, which is expressly denied, then said condition or defects were
21 or should have been open and obvious to plaintiff, and therefore no warning about said condition
22 or defects was necessary or required.

23 **XV**

24 **AS A FURTHER, SEPARATE AND DISTINCT ANSWER AND DEFENSE** to
25 plaintiff's Complaint on file herein, the COSTCO alleges that at the time and place referred to in
26 plaintiff's Complaint, plaintiff voluntarily assumed the risk of injury and damage to herself and
27 that any injury or damage suffered by said plaintiff at said time and place was voluntarily assumed
28 by her.

XVI

AS A FURTHER, SEPARATE AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint on file herein, and to each and every purported cause of action contained therein, COSTCO alleges that the risk of injury created by the alleged condition of property was minor, trivial or insignificant in light of the surrounding circumstances and did not create a substantial risk of injury. Plaintiff is therefore barred entirely from recovery against COSTCO, or alternatively, plaintiff should have the recovery, if any, proportionally reduced.

XVII

AS A FURTHER, SEPARATE AND DISTINCT ANSWER AND DEFENSE to plaintiff's Complaint on file herein, COSTCO alleges that COSTCO presently has insufficient knowledge and information upon which to form a belief as to whether COSTCO may have additional, as yet unstated, defenses. Accordingly, COSTCO reserves the right to assert additional defenses in the event discovery and investigation reveals a factual and legal basis for such affirmative defenses.

WHEREFORE, COSTCO prays:

1. Plaintiff take nothing against it by her Complaint;
2. Defendant has judgment for its costs of suit; and
3. Such other and further relief as the court deems just and proper.

Dated: *10/8/23*

MATHENY SEARS LINKERT & JAIME LLP

By: 

MATTHEW C. JAIME,
Attorneys for Defendant COSTCO
WHOLESALE CORPORATION

GUADALUPE PAYAN DE SOLIZ v. COSTCO WHOLESALE CORPORATION
FRESNO COUNTY SUPERIOR COURT CASE NO. 23CECG03696

PROOF OF SERVICE

I am a citizen of the United States and employed in Sacramento County. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 3638 American River Drive, Sacramento, CA 95864. On this date, I served:

ANSWER TO COMPLAINT

☐ **BY MAIL.** By placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the United States Post Office mail box at Sacramento, California, addressed as set forth below. I am readily familiar with my firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on the same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date of postage meter date is more than 1 day after date of deposit for mailing in affidavit.

☐ **BY PERSONAL SERVICE.** I caused such document(s) to be personally hand delivered on this same date to the person(s) as set forth below.

☐ **BY FACSIMILE TRANSMISSION.** I transmitted such document(s) by facsimile machine to the facsimile number for the person(s) as set forth below.

☒ **BY ELECTRONIC MAIL:** by sending the attached document via electronic mail to the e-mail addresses set forth below:

☐ **BY OVERNIGHT COURIER.** By placing a true copy thereof enclosed in a sealed Federal Express envelope, with the correct fee to be paid, in the correct drop box at Sacramento, California, addressed as set forth below. I am readily familiar with my firm's practice of collection and processing Federal Express for overnight delivery.

Joshua J. Zokaeem, Esq. The Capital Law Firm 11111 Santa Monica Boulevard, Suite 100 Los Angeles, CA 90025 T: 310-363-0403 F: 310-744-0110 Email: josh@capfirm.com litigation@capfirm.com	Counsel for Plaintiff
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I declare under penalty of perjury, according to the laws of the State of California, that the foregoing is true and correct.

Executed this 5 day of October, 2023, at Sacramento, California.


 Rhonda Ladrido